

FINANCIAL DISCLOSURE FREQUENTLY ASKED QUESTIONS

I am a Public Official. Can I file my Financial Disclosure Statement Electronically?

Yes. You may file your Public Financial Disclosure Statement electronically at www.bega.dc.gov. You will receive a letter from the Board of Ethics and Government Accountability in mid-April that includes a Login ID, Password, and PIN, which are required for you to file electronically.

If you choose not to file electronically, you must submit a hard copy of your Financial Disclosure Form to:

The Board of Ethics and Government Accountability
441 4th Street NW
Suite 830 South
Washington, D.C. 20001

You are not required to submit both a hard-copy and electronic form. The electronic form is sufficient.

I am a Government Employee who has been designated as a Confidential filer. Can I file my Financial Disclosure Statement Electronically?

No. You must file your Confidential Financial Disclosure Statement with the appropriate Agency Head or other designated official in your agency. These forms are not filed with BEGA.

I am an employee who makes decisions or participates substantially in the areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, policy-making, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest. Am I required to file a Financial Disclosure Statement? If so, should I file a Public Financial Disclosure Statement or a Confidential Financial Disclosure Statement?

Yes, if you engage in any of the above activities, you must file one of the two types of Financial Disclosure Statements – Public or Confidential.

Although these two forms are functionally identical, as the names suggest, one is filed publicly with BEGA and the other is filed confidentially with your employing government agency. Below is an explanation of which category may apply to you. If you are

uncertain, your Ethics Counselor can provide guidance on whether you are a public filer or a confidential filer.

Public Filers – All “Public Officials” must file a Public Financial Disclosure Statement. The Ethics Act defines a Public Official as:

- (A) A candidate for nomination for election, or election, to public office;
- (B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title;
- (C) The Attorney General;
- (D) A Representative or Senator elected pursuant to § 1-123;
- (E) An Advisory Neighborhood Commissioner;
- (F) A member of the State Board of Education;
- (G) A person serving as a subordinate agency head in a position designated as within the Executive Service;
- (G-1) Members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01;
- (H) A member of a board or commission listed in § 1-523.01(e); and
- (I) A District of Columbia **Excepted Service employee paid at a rate of Excepted Service 9 or above, or its equivalent**, who makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and any additional employees designated by rule by the Ethics Board who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest.

D.C. Official Code § 1-1161.01(47)(A-I) (emphasis added)

If you make decisions or participate substantially in any of the areas listed above, AND are paid at a rate of Excepted Service 9 or above, or its equivalent, then you are a Public Official, and must file a Public Financial Disclosure Statement.

Confidential Filers – A confidential filer is anyone who makes the types of decisions described above, as determined by their agency head, but is not paid at a rate of Excepted Service 9 or above.

As a public official, what action must I take prior to “May 15th?”

Financial Disclosure Statements are due on May 15th. The Public Financial Disclosure Statement form, however, is available for you to complete prior to May 15th. You will receive a letter from BEGA by mid-April that outlines requirements for filing.

As the designated Agency Head, what action must I take prior to “May 15th?”

By April 15th, you must designate, by name, position, and grade level, and notify the persons in your agency required to submit a Confidential Financial Disclosure Statement.

In addition, you must provide BEGA with the list of designated employees by May 1st.

With regard to Public Financial Disclosure Filers who are employed by an agency (Excepted Service 9 or above with policy-making authority), BEGA strongly recommends that each Agency Head submit a list of these Public filers (including name, position, title, grade level, home address, and work email address) to the Office of Government Ethics no later than April 12th. BEGA will then provide these individuals with electronic filing information reminders, and instructions for filing. **Please note that if PFDS filers do not receive such notification and information from the Office of Government Ethics, they are still obligated to file their Public Financial Disclosure Statements by May 15th and enforcement action will be taken against those who fail to file or fail to file timely.** This information may be provided, via email, to:

Cristina Patzelt
BEGA Attorney Advisor
cristina.patzelt@dc.gov

Other than May 15th, is there any other time throughout the year that I must submit a Financial Disclosure Statement?

Yes. Anytime there is a change in status (i.e. termination, promotion, or transfer), a **public** filer must submit a new Public Financial Disclosure Statement within ninety (90) days of the status change. (See, D.C. Official Code § 1-1162.24(c)).

A designated employee must submit a Confidential Financial Disclosure Statement to his or her agency head within ten (10) days of change in status or a determination that the position is covered by the reporting requirements. (See, DPM §§ 1812.16 (b) and (c)).

As a Public Official, will my Financial Disclosure Statement be Public?

Yes. If you are a public official your Financial Disclosure Statement is public. (See, D.C. Official Code § 1-1162.24(a)).

If you are an ANC Commissioner your Financial Disclosure Certification is public. (See D.C. Official Code § 1-1162.25(a-1)(2)).

However, the Board may, on a case-by-case basis, make exemptions. See answer to specific waiver questions below. (D.C. Mun. Regs. tit. 3, §5703.1 (2013)).

I am a public filer and have a legitimate safety concern about having my financial information available for public review. Is there some type of waiver or exemption available to me?

Yes. Section 224(a)(2) of the Ethics Act permits BEGA “on a case-by-case basis” to exempt a public official from this requirement “or some portion of this requirement for good cause shown.” The term “good cause” is not defined, but would probably include a legitimate safety concern, or a demonstrated history of being a victim of identity theft. It should be remembered that a public official, by definition, is a public figure, so waivers are very rare. The exemption is within the absolute discretion of the three-member BEGA Board. If a waiver is granted, the terms would probably still require the public official to file an FDS, but all or part of the statement might be deemed confidential. Any requests for a waiver must be submitted in writing and would not toll the May 15th filing deadline. This means that if you are requesting a waiver, you must do so sufficiently in advance of the May 15th filing deadline that you will be able to file on time if (a) your request for a waiver of the public filing requirement is denied; or (b) if your request for a waiver of the public filing requirement is granted but you are required to file a confidential Financial Disclosure Statement. You should allow sufficient time for the Ethics Board to consider and decide on any such waiver request.

I am an ANC Commissioner as well as a District government employee. I have been designated by my agency head as an employee who must file a Confidential Financial Disclosure Statement. Am I required to file two separate forms -- the ANC Certification form and the Confidential Financial Disclosure Statement (“CFDS”)?

Yes. ANC Commissioners are required to file the ANC Public Financial Disclosure Certification form with BEGA, while designated employees are required to file CFDSs with their agency heads. Because the forms require an original signature and must be kept with the respective

recipient (BEGA or the agency head), the filer must file these two separate Financial Disclosure forms.

What is a “prohibited source?”

“Prohibited Source” means anyone who is regulated by the District government, or anyone who does, or is seeking to do, business with the District government through a contract, grant, or other financial arrangement. (D.C. Official Code § 1-1161.01(46)).

What is an “Honorarium” or “Gift”?

“Honorarium” means any fee, per diem, compensation, or any amount paid to any member of any such board, commission, or committee for service as such member. (D.C. Official Code § 1-321.01).

“Gift” means a tip, favor, loan (except a bank loan given at the bank’s usual rate), entertainment, present, or anything else of value received from someone else. (DPM §§ 1803.2(b), 1803.3(c)).

I was designated by my Agency Head as a Confidential filer. I disagree with the designation. May I appeal?

Yes. An employee may request a redetermination (i.e. file an appeal) by submitting a written request to the Agency Head. (See, DPM § 1812.6(a)). The D.C. Ethics Counselor and the D.C. Department of Human Resources (“DCHR”) currently are revising the timeline for the appeal process. Questions regarding the appeal process should be directed to the D.C. Ethics Counselor.

As an Agency Head, what am I supposed to do with the completed Financial Disclosure Forms from my employees once I receive them?

The statements **must** be kept confidential, as you would keep any key personnel documents. You are required to retain the statements in limited access files under your control for at least three years. (See, DPM § 1812.12).

You must review each Confidential Financial Disclosure Statement to determine whether any violation of the Code of Conduct, such as a financial conflict or other improper outside financial relationship or monetary/gift acceptance, is reported on the form. The agency head is in the best position to determine whether a financial conflict exists given the employees’ job duties at the agency. If a Confidential Financial Disclosure Statement

contains an apparent violation of the Code of Conduct (i.e., an unlawful gift or contribution or a financial relationship that overlaps with the employees governmental duties), the agency head must immediately forward the statement to BEGA with an explanation of the discrepancy.

As an Agency Head, what deadlines should I remember?

All Agency Heads must designate the persons in their agency required to file CFDSs by **April 15th** of each year, and must supply a list of those persons to the Ethics Board and the D.C. Ethics Counselor by May 1st of each year.

It is also important to be mindful that **May 15th** is both, the deadline for designated employees to submit to you their Confidential Financial Disclosure Statements and the deadline for agency review of the statements and certification to the District's Ethics Counselor and the Board of Ethics and Government Accountability.

As a best practice, you should set an internal deadline, prior to May 15th, for submission of the Confidential Financial Disclosure Statements you receive.

I am a member of a Board or Commission other than an ANC. Must I file a Financial Disclosure Form? What if I receive no pay for my services?

The D.C Official Code states, "a member of a board or commission listed in § 1-523.01(e)," is required to file a public financial disclosure statement. Section 1-523.01(e) includes the following boards and commissions:

1. Alcoholic Beverage Control Board
2. Board of Library Trustees
3. Board of Trustees of the University of the District of Columbia
4. Board of Zoning Adjustment
5. Police Complaints Board
6. Contract Appeals Board
7. Board of Elections
8. Commission on Human Rights
9. Housing Finance Agency Board of Directors
10. Lottery and Charitable Games Control Board
11. Historic Preservation Review Board
12. Metropolitan Washington Airports Authority Board of Directors
13. Office of Employee Appeals
14. Public Employee Relations Board

15. Public Service Commission
16. Rental Housing Commission
17. Washington Convention and Sports Authority Board of Directors
18. Water and Sewer Authority Board of Directors
19. Zoning Commission
20. Taxicab Commission
21. Housing Authority Board of Commissioners
22. Homeland Security Commission
23. Commission on Fashion Arts and Events

The D.C. Official Code makes no distinction between paid and unpaid services. Every member of the boards and commissions listed in § 1-523.01(e) is a public official under the Ethics Act, and thus, must file a public financial disclosure statement. (D.C. Official Code § 1-1161.01(47)(H)).

How do I file my Financial Disclosure forms electronically?

Public filers and **ANC Commissioners** may file their financial disclosure forms electronically at www.bega.dc.gov.

Confidential filers who are designated employees must consult with their Agency Heads as to how to file their Confidential Financial Disclosure Statements.

Do I need to disclose my mutual fund account?

No. You only need to disclose financial accounts that are self-directed (i.e., you choose the individual companies in which the account invests). Remember, the purpose of the disclosure rules is to determine whether you are in a position, through your government work, to confer a benefit on an entity in which you have a private financial interest. If you are not aware of the various companies a mutual fund might own, there would not be that concern.

Do I need to disclose my personal checking account and/or credit card debt?

No. You do not need to list any credit card debt since most credit cards are issued by federal or state insured or regulated financial institution. In addition, credit card companies are in the business of providing revolving credit or installment accounts

Do I need to disclose my retirement account?

It depends. You may need to disclose the retirement account, depending on the type of account and how it is structured. For instance, just like ownership of stock/shares of a business entity which must be disclosed, if the account is self-directed (i.e., you choose the individual companies in which the account invests) then you must disclose. If, on the other hand, the retirement account funds are invested in mutual funds or similar type programs in which someone else makes investment decisions without any input or direction from you, you would not have to disclose.

The house that I live in is the only property that I own in the District of Columbia. Do I need to disclose this property?

No. You only need to disclose all **other** real property in which you (or your spouse) have a financial interest. The real property must have a fair market value of more than \$1000 or produce an income an income of more than \$200 per year.

How do I know if I need to disclose my domestic partner's financial information?

Financial information for a domestic partner must be disclosed. The Ethics Act mandates that FDS filers disclose the same information for their spouse, domestic partner, or dependent children as they do for themselves.

Domestic partner is defined in the Ethics Act as “a person with whom an individual maintains a committed relationship as defined in paragraph (1) of this section and who has registered under § 32-702(a). Each partner shall:

- (A) Be at least 18 years old and competent to contract;
- (B) Be the sole domestic partner of the other person; and
- (C) Not be married.”

(D.C. Code §1-1161.01(14) *citing* D.C. Code §32-701(3)).

I am a volunteer for the American Bar Association (“ABA”). Do I need to disclose this?

It depends. The ABA is a non-profit organization and, as such, is considered a “business entity” as that term is defined in D.C. Official Code § 1-1162.24(a)(1)(A). The Ethics Act mandates that you disclose any affiliations, such as officer, director, partner, employee, volunteer, consultant, contractor, and member, with any business entity, whether or not transacting business with the District. However, the FDS filer need only disclose those affiliations in which the FDS filer has a fiduciary role and/or control over the entity’s

management or operations. This extends to filers who are volunteers. In the case of the ABA, only a fiduciary or other position of control role need be disclosed.

Does this apply as well to the D.C. Bar?

No, you only need to disclose membership in the D.C. Bar because a license to practice law is a professional or occupational license (see below). You do not need to disclose whether you have a fiduciary or other similar type position with the D.C. Bar. The D.C. Bar is an instrumentality of the District government and therefore does not fall within the definition of “business entity”.

I became a Certified Public Accountant (“CPA”) licensed in D.C. during the previous calendar year. Do I need to disclose this?

Yes. The Ethics Act requires FDS filers to disclose all professional or occupational licenses issued by the District of Columbia Government held by the filer, his or her spouse, domestic partner, or dependent children.

I received a gift from a contractor who contracts with the District. Do I need to disclose this?

Yes, if this gift cost \$100 or more, you must disclose it. The Ethics Act requires PFDS and CFDS filers to disclose all gifts received from a prohibited source in the aggregate value of \$100 in a calendar year. D.C. Official Code §1-1162.24(a)(1)(E).

On the Public and Confidential Financial Disclosure Statements, Questions 1, 2, 3, 6 and 7 ask for an “amount.” Do I need to give an exact figure, or can I just disclose that the answer is valued at \$1,000 or more or produces an income of \$200 or more?

You must disclose the exact figure if you are a designated Agency employee required to complete a CFDS or a public official **other than a Member of a Board or Commission** listed in D.C. Official Code § 1-523.01(e).

If you are a Member of one of the Boards and Commissions listed in D.C. Official Code § 1-523.01(e), you only need to specify that each holding is valued at \$1,000 or more or produces at least \$200 of income, to have sufficiently answered those questions. BEGA recognizes that Members of the Boards and Commissions listed in D.C. Official Code § 1-523.01(e) earn their incomes from outside of the District of Columbia government, as opposed to other public officials and designated Agency employees who earn their salaries from the government.

Am I required to certify that the provisions in D.C. Official Code § 1-1162.24(a)(1)(G) are true?

Yes. The FDS filer must certify that he or she:

- (i) Filed and paid his or her income and property taxes;
- (ii) Diligently safeguarded the assets of the taxpayers and the District;
- (iii) Reported known illegal activity, including attempted bribes, to the appropriate authorities;
- (iv) Not been offered or accepted any bribes
- (v) Not directly or indirectly received government funds through illegal or improper means;
- (vi) Not raised or received funds in violation of federal or District law; and
- (vii) Not received or been given anything of value, including a gift, favor, service, loan, gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that the public official's official actions or judgments or vote would be influenced.

If filing electronically, the FDS filer will certify by entering in his or her PIN. If filing in hard copy, the FDS filer will sign and date the Signature Line immediately following the Certification paragraph.

What if I lose or forget my PIN?

You may contact the BEGA office and a new PIN will be issued to you. The BEGA office may be reached by telephone at 202-481-3411 or via email at bega@dc.gov.

If I previously had to file a Form 35 with my Agency Head and a separate Financial Disclosure Statement with the Office of Campaign Finance, what do I need to file now and with whom?

The Ethics Act was partly intended to do away with the past practice of employees having to file multiple financial disclosure forms with different government entities. As a result, you are no longer required to complete a Form 35 or file a Financial Disclosure Statement with the Office of Campaign Finance; however, as discussed herein those designated as "confidential filers" must file with their Agency Heads while "public officials" must file with BEGA. For the most part, an employee would not have to file with both their agency

and with BEGA (with the exception of ANC Commissioners who may also be employed separately by the District government). One form filed with one office is the goal.

Does the Office of Campaign Finance still accept Financial Disclosure Forms?

No. The Board of Ethics and Government Accountability (“BEGA”) is now the entity that accepts ***all*** Public Financial Disclosure Statements (“PFDS”) and ANC Commissioner Public Financial Disclosure Certifications. As noted above, BEGA does not accept Confidential Financial Disclosure Statements.